

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BOMBARDIER, INC.,

Plaintiff,

v.

mitsubishi aircraft corporation,  
mitsubishi aircraft corporation  
america, inc.; aerospace testing  
engineering & certification, inc.;  
michel korwin-szymanowski;  
laurus basson; marc-antoine  
delarche; cindy dornéval; keith  
ayre; and john and/or jane does 1-88,

Defendants.

NO. 2:18-cv-1543-RAJ

DECLARATION OF MARK BAILEY  
IN SUPPORT OF MOTION TO SEAL

I, Mark A. Bailey, declare as follows:

1. I am an attorney with Karr Tuttle Campbell (“KTC”), counsel of record for Defendants Aerospace Testing Engineering & Certification, Inc. (“AeroTEC”), Michel Korwin-Szymanowski, Laurus Basson, and Cindy Dornéval (collectively, the “AeroTEC Defendants”). I make this declaration based on personal knowledge, and am otherwise competent to testify to the matters stated herein.

2. The parties who have been served in this action entered into a Stipulated Interim Agreement re Confidential Documents and Information dated December 6, 2018 (the

1 “Agreement”). Pursuant to the Agreement, the parties agreed that the Exhibits to the Declarations  
2 of Daniel Burns and David Tidd, which Plaintiff filed on under seal on October 19, 2018, would  
3 be treated as confidential for purposes of Plaintiff’s pending Motion for Preliminary Injunction.  
4 More broadly, the Agreement provides that it also covers “any testimony, conversations, or  
5 presentations by parties or their counsel that might reveal Confidential material.”

6 3. The AeroTEC Defendants do not believe that anything in their Preliminary  
7 Injunction Opposition or the supporting declarations contain any confidential information, but out  
8 of an abundance of caution, we agreed to provide Plaintiff’s counsel with copies on December 26,  
9 2017, and that Plaintiff’s counsel would have a chance to “identify the content it deems  
10 confidential and appropriate for redaction, if any” by 3:00 today. Dkt. No. 57 at 2:35.

11 4. The parties scheduled a meet and confer at 3:30 today to discuss any redactions  
12 Plaintiff’s counsel identified as appropriate. At 3:36, we received notice from Plaintiff’s counsel  
13 that they wanted the Basson and Dornéval Declarations filed under seal in their entirety, and  
14 provided a copy of the AeroTEC Defendant’s preliminary injunction opposition with sections  
15 identified for redaction highlighted.

16 5. Plaintiff’s counsel joined the meet and confer at about 3:45, and explained that  
17 given the voluminous nature of the pleadings, and the fact that their client contact was on vacation  
18 and unreachable, he would be unable to narrow the scope of the information claimed as  
19 confidential. The parties met and conferred again at 5:30, and Plaintiff’s counsel reiterated that it  
20 had no way to contact his client, and no authority to narrow the scope of their requests to redact  
21 and seal any information.

22 6. The AeroTEC Defendants disagree with Plaintiff’s designations, but have agreed  
23 to file a redacted opposition brief, and to file the Basson and Dornéval Declarations under seal in  
24 their entirety. This is done under protest.

25 7. The Basson and Dornéval declarations generally discuss their backgrounds and  
26 experience, and explain the acts that Plaintiff alleges to have been wrongful. The exhibits are their  
27 agreements with AeroTEC, and bassoon includes a copy of a document he found on-line. Nothing

1 in the declarations should remain under seal.

2 8. The redacted content of the AeroTEC declarations is similarly not appropriate for  
3 filing under seal. Plaintiff has simply demanded redaction of any reference to the Burns and Tidd  
4 declaration exhibits, even though they do not disclose any content. Plaintiff's own pleadings and  
5 papers describe those and summarize their content documents freely and openly.

6 9. Given the fact that Plaintiff's counsel was unable to limit the scope of their  
7 redactions and requests, the parties' meet and confer was as thorough as it could be insofar as  
8 attempting to reach a resolution in the hopes of avoiding disputes.

9 I declare under penalty of perjury of the laws of the United States that the foregoing is true  
10 and correct.

11 Executed this 27<sup>th</sup> day of December, 2018, at Seattle, Washington.

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13 Mark A. Bailey  
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